

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Duval Clemmons, individually and on behalf
of all others similarly situated,

Plaintiff,

-against-

Upfield US Inc.,

Defendant.

Case No. 71:22-cv-00355 (PKC)

**NOTICE OF MOTION AND
MOTION TO DISMISS
PLAINTIFF'S COMPLAINT
PURSUANT TO RULE 12(b)(6)**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Defendant's Motion to Dismiss Plaintiff's Complaint, Defendant Upfield US Inc. moves, before the Honorable Peter Kevin Castel, United States District Court Judge for the Southern District of New York, at the Daniel Patrick Moynihan United States District Courthouse, 500 Pearl Street, New York, NY 10007-1312, for an order dismissing the Complaint of Plaintiff Duval Clemmons (Dkt. 1) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, on the grounds that the Complaint fails to state a claim upon which relief can be granted.

Dated: April 29, 2022

Respectfully submitted,

/s/ August T. Horvath

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Attorneys for Defendant Upfield US Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th of April 2022, a true and correct copy of the foregoing document has been served on counsel of record who are deemed to have consented to electronic service via electronic mail.

/s/ August Horvath

August T. Horvath